

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Allan et al.**

Serial No.: **09/583,958**

Filed: **May 31, 2000**

For: **Method and System for Dynamic
Update of an Application Monitoring Agent
Using a Non-Polling Mechanism**

§ Group Art Unit: **2154**

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§ Examiner: **Nguyen, Dustin**

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§ Attorney Docket No.: **AUS920000254US1**

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PATENT TRADEMARK OFFICE
CUSTOMER NUMBER

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

DECLARATION UNDER 37 C.F.R. § 1.132

Sir:

No fees are believed to be required to file this Declaration. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447.

In the Renewed Petition to Revive, please consider the following declaration.

DECLARATION UNDER 37 C.F.R. § 1.132

In support of the Renewed Petition to Revive in patent application number 09/583,958, I/We hereby declare the following:

- 1) I am of legal age and employed by International Business Machines Corporation (the "Applicant"), in which capacity I personally oversee Office Actions on behalf of the IBM Corporation requiring Responses to be filed on behalf of the IBM Corporation.
- 2) On the mailing date of the Final Office Action in question, November 30, 2004, I was employed full time by the Assignee and have no record of receipt of said Final Office Action because the correspondence address was that of the outside counsel. IBM was unaware that the outside counsel handling this case was not attending to the matter. The customer number used by the outside counsel in question did not list us and we were unable to monitor activity in PAIR. Upon learning of this situation, we immediately prepared a Customer Number Upload Spreadsheet to change the cases under control of outside counsel to our customer number, which was then submitted to the Patent Office on August 23, 2006, in which Serial No. 09/583,958 was included in this change. As a result, we found several files that had not been attended to and that had gone abandoned. On October 24, 2006, we filed an Appeal Brief and a Petition to Revive.
- 3) After making investigation into the facts and circumstances of the delay, we determined the delay in filing the response was unintentional. A petition to revive the Application was filed as soon as the investigation into the facts and circumstances of the situation were determined. The delay in filing the initial petition under 37 CFR 1.137(b) was unintentional.

I understand that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon. All statements made in this declaration of my own knowledge are true and all statements made on information and belief are believed to be true.

DATE: June 24, 2008

/Martha Acosta/

Martha Acosta